

AMENDMENTS TO THE DRAWINGS

The attached sheet of drawings includes changes to Figs. 1-5. This sheet, which includes Figs. 1-5, replaces the original sheet including Figs. 1-5. The replacement sheet has been completely updated to remove any copy machine marks, to provide uniformly thick and well defined, clean, durable and black lines, numbers, and letters; to make the number and reference characters plain and legible; and to make the legends of appropriate quality as required by the Draftsperson's Review. No new matter has been added.

Attachment: Replacement Sheet

REMARKS

The Applicant and Applicant's attorney wish to thank the Examiner for the time spent reviewing the application and preparing the Office Action. In the Office Action, claims 1-15 were rejected. By this paper, independent claim 14 and dependent claims 7, 8, and 13 have been amended. Also, new claim 16 has also been added. Applicant submits that claim amendments and newly the added claim do not add new matter and entry thereof is respectfully requested. As a result, claims 1-16 are pending and should be in condition for allowance. Reconsideration of the above-identified claims is now respectfully requested.

Objections

Paragraph 2 of the Office Action objected to the drawings. Replacements sheets as well as annotated sheets are attached herein. Applicant believes the attached drawings clarify the lines, numerals, and marks as required and therefore respectfully requests the replacement sheets be entered and the objection to the drawings be withdrawn.

Paragraph 4 objected to informalities in claims 7, 8, 13, and 14. Applicant submits the claims amendments discussed above address the informalities. Further amendments to the claims have also been made for the sake of clarity and conformance with formal requirements. Accordingly, Applicant respectfully requests the amendments be entered and the objections to claims 7, 8, 13, and 14 be withdrawn.

Rejections Under 35 U.S.C. § 103

Paragraphs 5-6 of the Office Action rejected claims 1, 9, 10, 12 and 13 as being obvious under 35 U.S.C. § 103(a) in light of U.S. Publication No. 2006/0098164 to *Blum et al.*

(hereinafter referred to as "*Blum*"). The Office Action at paragraph 4 admits "However, *Blum* et al does not implicitly disclose wherein the diopter value of the lens is governed by the equation $\Phi=1/u+A+B-\Delta\Phi$." The Office Action asserts, "It would have been obvious that *Blum* functions the same since *Blum* disclose [sic] a similar structure claimed by applicant." In fact, *Blum* discloses an electro-active phoropter/refractor. See *Blum*, para. 70. *Blum* makes clear that the phoropter is configured to diagnose a correct prescription for a user: "[T]he control system, whether operated by the eyecare professional, technician, and/or the patent/wearer, is utilized to select both objectively the best correcting prescription for the patient/wearer." *Blum* para. 79. Accordingly, *Blum* discloses the use of properly focused corrected lenses and thus teaches away from a device that includes a lens with a focus-out diopter between 0.1 ~ 3D, as recited in claim 1.

Additionally, claims 1 and 5 provide a relationship between the diopter of lens and a controlled distance and also notes the matter of distance-control mechanisms, so as to effectively correct myopia. Otherwise, a contrary effect might be caused. See line 3 in page 2 of the specification, "The technology solution for the invention is: a myopia correcting apparatus particularly for short distance de-focusing object training, including the spectacles frame, lens frame and lenses. The characteristic is that the diopter of the lens is $\Phi=1/u+A+B-\Delta\Phi$, while A is the rectified diopter of farsightedness, B is the de-focusing diopter with a select value between 0.1 and 3D, $\Delta\Phi$ is the modified value, and u is the distance between viewed object and lens in the training". The specification at line 15 in page 6 to line 3 in page 7 also discloses,

The static diopter of normal eyes can make the parallel-entered sight focus on the retina and without dynamic refraction adjustment. For the recovery of the function, the long time of near diopter accommodation should be avoided and the parallel sight is preferred. While for the patient of myopia, the ciliary muscle of eyes is in spastic condition, and it is very obvious in the experiment that only the

reduction of near vision accommodation cannot work, when the eye is in the state of de-focusing the object for far vision, that is to produce the far vision "blur adjustment" through the lens and the formation of eyes diopter system within the vitreous in front of the retina, as a result, the ciliary muscle can be relaxed toward the normal condition and the spastic state can be released fast and effectively. Therefore, only convex lens of low degree applied in short distance to reduce the eyes accommodation is useless. Even when convex lenses of medium and low degree are applied, and near vision observation is performed liberally with the absence of consideration for the distance of the viewed object, the ideal or reliable effect cannot be guaranteed; the specific distance for the use is the first thought. The effective de-focusing object can be achieved through the match of the specific lens to the right distance.

Because the method has particular structure and parameters, many advantages such as prominent effect, fast correction, no side effect, simple structure, and a simple and scientific process can be achieved. It can be especially suitable for the usual prevention and cure of myopia for children and youth, as well as the fast cure of functional myopia.

Since *Blum* fails to teach or suggest each of the elements of claim 1, Applicant respectfully submits that rejection of claim 1 is inappropriate and requests the rejection be reconsidered and withdrawn. Claims 9, 10, 12, and 13 depend from claim 1 and are therefore patentable over *Blum* for at least the same reasons discussed above.

Paragraph 7 rejected claims 2-7 as being obvious under 35 U.S.C. § 103(a) in light of *Blum* and in further view United States Patent 4,408, 846 to *Balliet* (hereinafter referred to as "*Balliet*"). Applicant respectfully submits that *Balliet* fails to remedy the deficiencies of *Blum* discussed above such that claims 2-7 are patentable over the combination of *Balliet* and *Blum* for at least the same reasons. Since *Blum* and *Balliet*, either alone or in combination, fail to teach or suggest each of the elements of claims 2-7, Applicant respectfully submits that rejection of claims 2-7 is inappropriate and requests the rejection be reconsidered and withdrawn.

Additionally, with respect to claim 2, the value of u provided is not for adjusting the vision mark, but rather defines a better environment and conditions for a better correcting effect, thus a prominent effect can be achieved.

Paragraph 8 rejected claim 8 as being obvious under 35 U.S.C. § 103(a) in light of *Blum* and in further view United States Patent No. 5,231,430 to *Kohayakawa* (hereinafter referred to as "*Kohayakawa*"). Applicant respectfully submits that *Kohayakawa* fails to remedy the deficiencies of *Blum* discussed above such that claim 8 is patentable over the combination of *Kohayakawa* and *Blum* for at least the same reasons. Since *Blum* and *Kohayakawa*, either alone or in combination, fail to teach or suggest each of the elements of claim 8, Applicant respectfully submits that rejection of claim 8 is inappropriate and requests the rejection be reconsidered and withdrawn.

Paragraph 9 rejected claims 11, 14, and 15 as being obvious under 35 U.S.C. § 103(a) in light of *Blum*, as applied to claim 1. For at least the same reasons discussed above with reference to claim 1, Applicant believes claims 11, 14, and 15 are patentable over *Blum* and therefore respectfully requests the rejection to be reconsidered and withdrawn.

Conclusion

In light of the foregoing amendments and remarks, claims 1-16 are pending and Applicant respectfully submits the claims should be in condition for allowance. Reconsideration and allowance of the above-identified claims is now respectfully requested.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

The Commissioner is hereby authorized to charge payment of any of the following fees that may be applicable to this communication, or credit any overpayment, to Deposit Account No. 23-3178: (1) any filing fees required under 37 CFR § 1.16; (2) any patent application and reexamination processing fees under 37 CFR § 1.17; and/or (3) any post issuance fees under 37 CFR § 1.20. In addition, if any additional extension of time is required, which has not otherwise been requested, please consider this a petition therefor and charge any additional fees that may be required to Deposit Account No. 23-3178.

Dated this 16th day of December 2009.

Respectfully submitted,

/Kulaniakea Fisher/Reg. No. 50,987
Kulaniakea Fisher
Registration No. 50,987
Attorney for Applicants
Customer No. 022913
Telephone No. (801) 533-9800
Fax No.: (801) 328-1707
kfisher@wnlaw.com

KF:vlr

APPENDIX